

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte GEORGE S. GALES, CRAIG D. ANDERSON, RICHARD L. SCHERTZ,  
and RICHARD P. TARQUINI

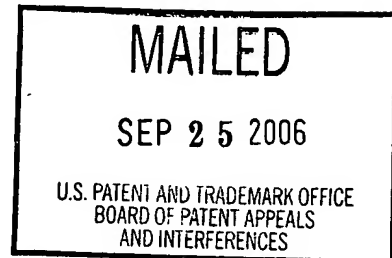
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Appeal No. 2006-2509  
Application No. 10/001,431

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ON BRIEF

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Before THOMAS, HAIRSTON, and BLANKENSHIP, Administrative Patent Judges.  
BLANKENSHIP, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134 from the examiner's final rejection of claims 1-29, which are all the claims in the application.

We affirm.

BACKGROUND

The invention relates to a method of defining security conditions of a computer system. Representative claim 1 is reproduced below.

1. A method of defining the security condition of a computer system, comprising:
  - generating a human-readable and machine-readable vulnerability description language (VDL) file specifying:
    - an identity of an attack;
    - at least one attribute of the specified attack;
    - at least one policy definition with respect to the specified attack;
    - and
    - at least one attribute of the specified policy definition.

The examiner relies on the following references:

Vaidya	US 6,279,113 B1	Aug. 21, 2001 (filed Jun. 4, 1998)
Chefalas et al. (Chefalas)	US 2002/0116639 A1	Aug. 22, 2002 (filed Feb. 21, 2001)

Claims 1 and 3-29 stand rejected under 35 U.S.C. § 102 as being anticipated by Chefalas.

Claim 2 stands rejected under 35 U.S.C. § 103 as being unpatentable over Chefalas and Vaidya.

We refer to the Final Rejection (mailed Aug. 31, 2005) and the Examiner's Answer (mailed Jun. 8, 2006)<sup>1</sup> for a statement of the examiner's position and to the Brief (filed Dec. 27, 2005) and the Reply Brief (filed Mar. 10, 2006) for appellants' position with respect to the claims which stand rejected.

### OPINION

In accordance with appellants' arguments in the Brief, we will decide the appeal on the basis of the Chefalas reference as applied against the independent claims 1, 12, and 17. See 37 CFR § 41.37(c)(1)(vii).

Chefalas describes a method and system for defining the security condition of a computer system. Information regarding virus attacks and actions includes data packets passing from clients to servers and from servers to clients (Figs. 4A, 4B; ¶¶ 44-45) and security policies (Figs. 5A and 5B; ¶ 46). The examiner finds that Chefalas describes generating a vulnerability description language (VDL) file within the requirements of instant claim 1.

Appellants submit that the files depicted in the drawings are not "human-readable and machine-readable" as recited in the claims. However, the data is clearly machine-readable, as the computers are responsive to the information in the files (e.g., ¶ 28). We have considered appellants' arguments to the contrary, but in our estimation

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<sup>1</sup> The examiner mailed this corrected version of the Answer after appellants' filing of the briefs.

the reference also supports the examiner's finding that the files are "human-readable." The information depicted in Figures 4A through 5B is presented as English text (e.g., text in payload 404 of Fig. 4A; policy represented in Fig. 5A). Further, the information may be collected and presented to a human viewer (e.g., ¶ 30), which indicates that the files are stored in human-readable form. Moreover, the various policies with respect to particular viruses are not machine-generated, but human-generated. One can reasonably assume that the policies are not converted to some form that is readable only by a machine, at least for the reason that human-readable files would facilitate updating of the policies provided by remote administrator 138 (Fig. 1), which may reside in a relational database (¶ 48).

Appellants also allege that even if the reference may be considered to describe a file both human and machine-readable, the information shown does not meet the language specifying the contents of the file as recited in claims 1 and 12. However, appellants in the Brief consider only the policies shown in Figures 5A and 5B of Chefalas, rather than all the data that the examiner finds to comprise the VDL file as claimed. Further, in response to the examiner's additional findings in the Answer, appellants return to the argument that the data is not "human-readable and machine-readable." Appellants thus do not persuade us of error in the rejection of claims 1 and 12.

Moreover, we observe that claim 1 and claim 12 are drawn to respective methods of generating a file. Appellants' arguments regarding the content of the files

are not persuasive because the content of the files is in the form of what has come to be known as nonfunctional descriptive material. Appellants are not claiming any type of computer program (which may be considered as functional descriptive material) or any type of machine response to the material contained in the files. The claims are drawn to the generation of mere arrangements of data, which are not, incidentally, limited to be on any particular physical medium (e.g., computer-readable media). In short, appellants are claiming "a process that differs from the prior art only with respect to nonfunctional descriptive material that cannot alter how the process steps are to be performed to achieve the utility of the invention." Manual of Patent Examining Procedure (MPEP) § 2106, page 2100-22 (8th Ed., Rev. 3, Aug. 2005).

We find that claim 1, for example, is anticipated by a description of generating a file having four items of information, for which Chefalas suffices. The content of the nonfunctional descriptive material carries no weight in the analysis of patentability over the prior art. Cf. In re Lowry, 32 F.3d 1579, 1583, 32 USPQ2d 1031, 1034 (Fed. Cir. 1994) ("Lowry does not claim merely the information content of a memory. . . . [N]or does he seek to patent the content of information resident in a database.").

Instant claim 17 is drawn to a system comprising a VDL file containing two items, an interpreter to parse and organize the items, and a data storage to store the parsed and organized items that is accessible by at least one security application.

The examiner finds that the elements and the claimed details are found in Chefalas, with particular emphasis on paragraph 48 of the reference, disclosing that the

tables illustrating policies (Figs. 5A and 5B) may be implemented in a relational database.

Appellants describe an interpreter 202 (Fig. 3) that reads VDL file 200, parses the descriptions, and organizes them into tables in a configuration database 204. (Spec. at 8-9.) With respect to the database described by Chefalas, information generated by human beings may be entered into a relational database by a machine reading a file prepared by a human being, or by a human being entering data at a terminal. Instant claim 17 is sufficiently broad to read on either method; e.g., a human being reading a file and entering the information into a data terminal, with the database program parsing the information and organizing the information pursuant to the predetermined format of the database design. The artisan would appreciate that Chefalas describes a system within the scope of claim 17, even without the reference expressing the details of how information gets from human beings into a relational database. “A reference anticipates a claim if it discloses the claimed invention ‘such that a skilled artisan could take its teachings in combination with his own knowledge of the particular art and be in possession of the invention.’” *In re Graves*, 69 F.3d 1147, 1152, 36 USPQ2d 1697, 1701 (Fed. Cir. 1995) (quoting *In re LeGrice*, 301 F.2d 929, 936, 133 USPQ 365, 372 (CCPA 1962)).

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We have considered all of appellants' arguments in response to the rejection of claim 17, but in our view the reference supports the examiner's finding of anticipation.<sup>2</sup>

We thus sustain the examiner's rejections.

#### CONCLUSION

The rejection of claims 1 and 3-29 under 35 U.S.C. § 102 and the rejection of claim 2 under 35 U.S.C. § 103 are affirmed.

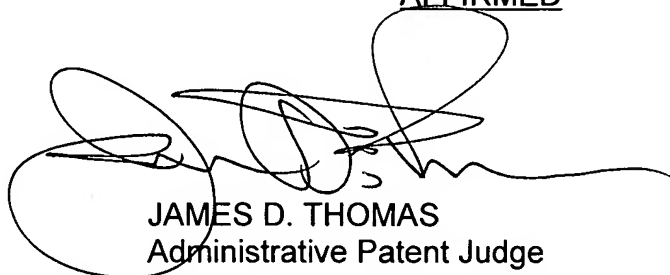
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<sup>2</sup> Moreover, claim 17 is drawn to, at best, a file containing nonfunctional descriptive material and "a computer that differs from the prior art solely with respect to nonfunctional descriptive material that cannot alter how the machine functions (i.e., the descriptive material does not reconfigure the computer). . ." MPEP § 2106, p. 2100-22.

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No time period for taking any subsequent action in connection with this appeal  
may be extended under 37 CFR § 1.136(a). See 37 CFR § 1.136(a)(1)(iv).

AFFIRMED

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JAMES D. THOMAS  
Administrative Patent Judge

A handwritten signature in black ink, appearing to read 'Kenneth W. Hairston'.

KENNETH W. HAIRSTON  
Administrative Patent Judge

A handwritten signature in black ink, appearing to read 'Howard B. Blankenship'.

HOWARD B. BLANKENSHIP  
Administrative Patent Judge

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